



OFFICE OF

No. SB 26x

THE GOVERNOR
STATE OF OKLAHOMA

OKLAHOMA CITY, OKLA.,

May 31, 2023
TIME SIGNED: 10:20 am

TO THE HONORABLE PRESIDENT PRO TEMPORE
AND MEMBERS OF THE OKLAHOMA SENATE
FIRST **EXTRAORDINARY** SESSION OF THE
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED SENATE BILL NO. 26x:

Pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution, I have vetoed Enrolled Senate Bill 26x.

In clear violation of Oklahoma's fundamental and statutory law, Enrolled Senate Bill 26x purports to extend existing and expired tobacco tax compacts. Both because this Bill amounts to a circumvention of the executive's authority to negotiate compacts and is not in the State's best interests, I must veto it.

As enacted, Senate Bill 26x would rubberstamp pre-*McGirt* compacts containing the very language five of the State's 38 federally recognized tribes have relied upon to challenge, in *Stroble v. Oklahoma Tax Commission*, the State's right to collect income tax within its territory. Although I believe the tribes' arguments in *Stroble* are without merit, to legislate as though at least those few tribes are not prepared to lodge the same argument in the tobacco tax context (and likely elsewhere) is at best unwise.

Even if the Bill were otherwise fair for the State, this bill has other problems, too.

First, this Bill is a byproduct of a body purporting to sit simultaneously in special and regular session. While a special session may have run concurrently with a regular session before; it does not mean such an occurrence is constitutional.

Second, this Bill is unconstitutional pursuant to Article 5, Section 27A because tobacco compacts—or for that matter, compacts at all—are not specifically identified in the Call, which is limited “to the consideration of” matters involving the appropriation of funds; the implementation and administration of budget-related funds; and the expenditure of American Rescue Plan Act of 2021 funds.

This Bill may appear on its face to be innocuous. However, if this bill were to become law, irreparable harm will befall our Great State. For these reasons, I have vetoed Enrolled Senate Bill 26x.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Delivered to SENATE by:

Date/Time:

Sumner Cunningham
5/31/23; 3:38 pm

SENATE:

By

Date/Time

Cindy Faulkner
5/31/23 3:42 pm

RECEIVED

MAY 31 2023

OKLAHOMA SECRETARY
OF STATE